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EXAMINER

FIORELLO, BENJAMIN F

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12/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,123	Applicant(s) GUGGEMOS, HORST	
	Examiner BENJAMIN FIORELLO	Art Unit 4155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/29/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because **there are two (2) drawings labeled “Fig. 1d” and zero (0) drawings labeled “Fig. 1b.”** Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The use of the phrase “in particular” fails to distinctly point out the applicant’s invention since “in particular” does not specifically states whether or not the claimed invention includes the features associated with the "in particular" statement. The phrase “in particular” appears in the following claims:

Claim 1: lines 1-2 and lines 3-4.

Claim 5: twice in line 3.

Claim 6: once in line 2, twice in line 3, and once in line 4.

Claim 9: line 3.

Claim 14: line 4.

Claim 15: line 5.

Claim 17: line 2 and line 4.

Claim 22: line 1.

The use of the phrase “and/or” fails to distinctly point out the applicant’s invention since “and/or” does not specifically states what the claimed invention includes since the "and/or " statement may include one or both features. The phrase “and/or” appears in the following claims:

Claim 1: line 4.

Claim 14: lines 3.

Claim 15: line 4.

Claim 16: line 3.

Claim 19: line 2.

Claim 20: line 2 and line 3.

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Claim 21: line 3.

Regarding claim 15, line 6, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

3. Claim 11 recites the limitation "the angular symmetrical plane" and "the central angle" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-21 are dependent claims of independent claim 1, and are therefore also indefinite and rejected under 35 U.S.C. 112.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Timmons (4,768,813).

With regard to claim 1, as best understood, Timmons discloses a cylindrical or truncated conical annular element or liner (see figure 1, liner 36 and column 5, lines 13-18), in particular of plastic (it is inherent that since the liner may be applied to a plastic pipe, see column 9, lines 15-18, therefore liner may be made of plastic), for constructing a channel or pipe-cased shaft or a pipeline, whereby aligned longitudinal ribs (see figure 1, ribs 46 and column 6, line 30) are provided on the outer surface of the annular

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element (see figure 5, where pipe 31 corresponds to applicant's annular element and ribs 46 are placed on the outer surface) in particular, parallel to the generatrix and/or parallel to the central median axis of the annular element (see figure 1, where ribs 46 are parallel to the central median axis), characterized in that at least two longitudinal ribs lying side by side, having an essentially parallel direction of projection, extend from the outer surface (see figure 5, where two ribs 46 lay side by side and have a parallel projection from the outer surface).

With regard to claim 2, as best understood, Timmons discloses the claimed invention as well as the lateral surfaces of at least two side by side longitudinal ribs which have an essentially rectangular or at least partially rectangular cross section (see figures 1 and 5, where ribs 46 essentially have a rectangular cross section), are essentially and at least partially aligned in parallel (see figures 1 and 5 where ribs 46 are essentially aligned in parallel), whereby the surface of the longitudinal ribs facing the annular element is adapted to the curvature of the outer surface (see column 6, lines 30-37, where ribs 46 are compressed to form a sealing engagement, therefore it is inherent that the ribs adapt to the curvature of the outer surface).

With regard to claim 3, as best understood, Timmons discloses the claimed invention as well as at least one longitudinal rib has a radial direction of projection (see figures 1 and 5, where radial is defined as projecting outward from the center, ribs 46 clearly have a radial projection).

With regard to claim 4, as best understood, Timmons discloses the claimed invention as well as the longitudinal ribs are arranged at regular distances from one

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another (regular, in its broadest reasonable terms is defined as evenly or uniformly arranged and figure 1 clearly shows ribs 46 arranged at even and uniform distances).

With regard to claim 5, as best understood, Timmons discloses the claimed invention as well as transverse ribs which are aligned in peripheral direction and extend parallel to one another, in particular crossing the longitudinal ribs, in particular continuous, are provided on the outer surface (see figures 1 and 5 transverse ribs 36 and 38, cross ribs 46, are parallel to each other, continuous, and are on the outer surface).

Alternate Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 6-14, 16-19, and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Timmons (4,768,813).

With regard to claim 1, as best understood, Timmons discloses a cylindrical or truncated conical annular element or liner (see figure 1, where coupler 10 and mate 12 together corresponds to applicant's liner), in particular of plastic (see column 5, lines 3-5, where the element may be made from polyvinyl chloride, also known as PVC, as common plastic), for constructing a channel or pipe-cased shaft or a pipeline, whereby aligned longitudinal ribs are provided on the outer surface of the annular element (see figure 1, ribs 16, 18) in particular, parallel to the generatrix and/or parallel to the central

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median axis of the annular element (see figure 1 where ribs 16 and 18 run parallel to the central axis), characterized in that at least two longitudinal ribs lying side by side, having an essentially parallel direction of projection, extend from the outer surface (see figure 1, when halves 10 and 12 are placed together, two ribs lay side by side as shown in figures 2-4, and also have a parallel direction of projection).

With regard to claim 6, as best understood, Timmons discloses the claimed invention as well as the annular element is assembled, in particular screwed, glued or welded together (see column 4, lines 55-59 and figures 1 and 3), in particular in a watertight manner (see column 5, lines 11-18), from several, in particular 2, 3, 4, 6, 8 or 10, partially cylindrical or partially truncated conical annular segments, in particular of the same dimensions (see figure 1, where identical annular segments 10 and 12 are of the same dimensions).

With regard to claim 7, as best understood, Timmons, discloses the claimed invention as well as the longitudinal ribs are constructed mutually identical (see figure 1, where the ribs are clearly constructed identically).

With regard to claim 8, as best understood, Timmons discloses the claimed inventions as well as all of the longitudinal ribs of an annular segment extend from the outer surface with an essentially parallel direction of projection (see figure 1, where all the ribs 16, 18, extend from the outer surface with an essentially parallel direction of projection).

With regard to claim 9, as best understood, Timmons discloses the claimed invention as well as the lateral surfaces of all longitudinal ribs of an annular segment

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which are, in particular, essentially rectangular or at least partially rectangular in cross section are aligned essentially parallel to one another (see figure 1, where the ribs have a rectangular cross section and are aligned essentially parallel to one another).

With regard to claim 10, as best understood, Timmons discloses the claimed invention as well as characterized in that each annular segment has a longitudinal rib with a radial direction of projection (see figure 1, where each annular segment 10 and 12 have a longitudinal rib 16 and 18 with a radial direction of projection).

With regard to claim 11, as best understood, Timmons discloses the claimed invention as well as each annular segment has at least one longitudinal rib which extends parallel to the angular symmetrical plane of the central angle of the annular segment extending through the median axis (with two annular segments the central angle is presumed to be 180 degrees and therefore as seen in figure 1, each annular segment has one longitudinal rib 16 or 18, which extends parallel to the symmetrical plane through the median axis).

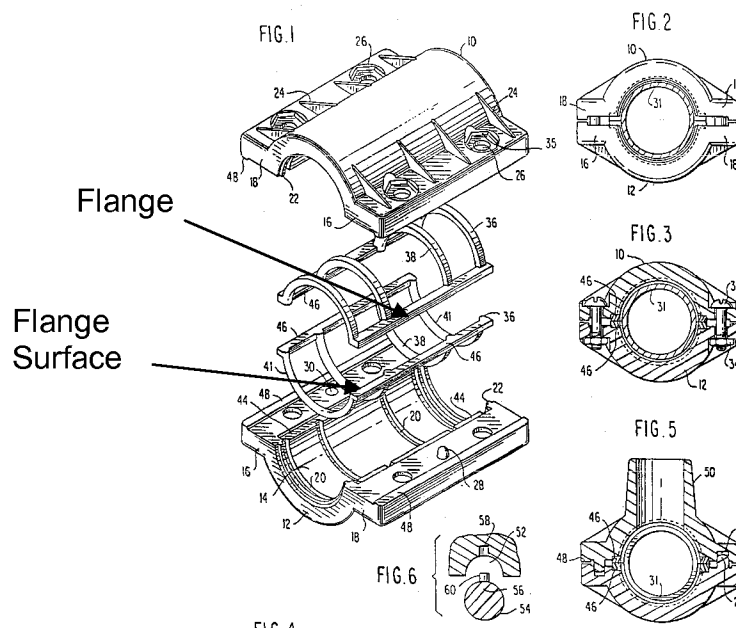
With regard to claim 12, as best understood, Timmons discloses the claimed invention as well as the longitudinal ribs of each annular segment is arranged at regular distances from one another, preferably symmetrically to the angular symmetrical plane (regular, in its broadest reasonable terms is defined as evenly or uniformly arranged and figure 1 clearly shows ribs 16 and 18 arranged at even and uniform distances).

With regard to claim 13, as best understood, Timmons discloses a longitudinal rib of each annular segment lies on the angular symmetrical plane (as stated above, the

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angular symmetrical plane is presumed to be 180 degrees, and as shown in figure 1, ribs 16 and 18 lie on this plane).

With regard to claim 14, as best understood, Timmons discloses the claimed invention as well as each annular segment has radial outward and/or inward projecting broad flange surfaces on its straight broad sides (see figure 1, where annular segments 10 and 12 have straight broad sides 46 with broad flange surfaces) via which the annular segments can be connected to one another (see figures 2-3 where segments 10 and 12 maybe connected to one another via flanges 46), in particular in a watertight manner, to form an annular element (see column 6, lines 30-35).



With regard to claim 16, as best understood, Timmons discloses the claimed invention as well as recesses for fastening means are provided in the broad surfaces of

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the flange and/or the longitudinal surfaces of the flange (see figure 13, recesses 96 in flange 96 and see column 13, lines 45-48).

With regard to claim 17, as best understood, Timmons discloses the claimed invention as well as continuous transverse ribs are provided on each annular segment on the outer surface extending in peripheral direction and parallel to one another, in particular crossing the longitudinal ribs (see figure 1, transverse ribs 24, which are provided on the outer surface in the peripheral direction and parallel to one another, cross into the longitudinal ribs and continuous, which in its broadest reasonable terms means without break).

With regard to claim 18, as best understood, Timmons discloses the claimed invention as well as the longitudinal ribs are continuous (see figure 1, where the longitudinal ribs 18 and 18 are without break and are continuous).

With regard to claim 19, as best understood, Timmons discloses the claimed invention as well as the annular element and/or the individual annular segments are made as one-piece shaped parts (see figure 1, where annular element 10 is made of one piece).

With regard to claim 21, as best understood, Timmons discloses the claimed invention as well as at least one groove is made in the longitudinal surface and/or in the broad surface of the flange for accommodating seals with which adjacent broad surfaces or longitudinal surfaces of the flanges can be sealed (see figure 5, where grooves 30 are provided on the surface of the rib and where which adjacent flange its

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able to connect with said groove and see column 6, lines 30-37 where it is known the pipe is sealed).

With regard to claim 22, as best understood, Timmons discloses channel shafts or pipe-cased shaft (see figure 1 and 5 where the element 10 and 12 make up a pipe cased shaft), constructed of annular elements in particular of plastic (see column 5, lines 3-5, where the element may be made from polyvinyl chloride, also known as PVC, as common plastic), for constructing a channel or pipe-cased shaft or a pipeline, whereby aligned longitudinal ribs are provided on the outer surface of the annular element (see figure 1, ribs 16, 18) in particular, parallel to the generatrix and/or parallel to the central median axis of the annular element (see figure 1 where ribs 16 and 18 run parallel to the central axis), characterized in that at least two longitudinal ribs lying side by side, having an essentially parallel direction of projection, extend from the outer surface (see figure 1, when halves 10 and 12 are placed together, two ribs lay side by side as shown in figures 2-4, and also have a parallel direction of projection).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Timmons (4,768,813) in view of O. E. Brown (2,775,469).

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With regard to claim 15, as best understood, Timmons discloses the claimed invention except for the annular element or each annular segment has on its curved longitudinal sides normal to the median axis or axis of curvature, outwardly and/or inwardly projecting longitudinal surfaces of the flange via which the annular element can be connected to further annular elements, in particular in a watertight manner, to form a pipe-cased shaft or the like.

Brown discloses annular element or each annular segment has on its curved longitudinal sides normal to the median axis or axis of curvature, outwardly and/or inwardly projecting longitudinal surfaces of the flange via which the annular element can be connected to further annular elements, in particular in a watertight manner, to form a pipe-cased shaft or the like (see figures 8-9, annular element 22 with outwardly projecting flange 48 which is normal to the median axis, which include apertures on the flange 48 as shown in figure 9 and is obvious to one of ordinary skill in the art that these are for connecting consecutive segments and it is obvious to one of ordinary skill in the art the pipe maybe water sealed so leaks are not present).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Timmons to include the flanges with connection means in order to allow from consecutive segments to be connected together.

10. Claim 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Timmons (4,768,813) in view of B. A. Lamberton (3,397,260).

With regard to claim 20, as best understood, Timmons discloses the claimed invention except for the annular element and/or the individual annular segments and/or

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the shaft constructed from annular elements are surrounded, at least partially, on the outside by a concrete layer.

Lamberton discloses it is known to surround a pipe, which corresponds to the annular element, by a layer of concrete, which is therefore on the outside layer (see column 5, lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Timmons to include a outside concrete layer attached to the outer surface in order to strengthen the pipe, rigidify it, and protect it from moisture, fire, or other adverse conditions as taught by Lamberton (see column 1, lines 53-60).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN FIORELLO whose telephone number is (571)270-7012. The examiner can normally be reached on Monday to Thursday from 7:30am to 5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on (571)272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ben Fiorello/
Examiner, Art Unit 4155
11/04/2008

/Thu Nguyen/
Supervisory Patent Examiner, Art Unit 4155